

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

HAWKEYE GOLD, LLC,

Plaintiff,

v.

CHINA NATIONAL MATERIALS
INDUSTRY IMPORT AND EXPORT
CORPORATION d/b/a SINOMA

Defendant.

Case No.: 4:16-CV-00355

**DEFENDANT'S MOTION FOR
LEAVE TO FILE SUR-SUR-REPLY
IN SUPPORT OF MOTION TO SET
ASIDE ENTRY OF DEFAULT**

Defendant, China National Materials Industry Import and Export Corporation (“Sinoma”), moves for leave to file a sur-sur-reply to address new arguments and an alternative request for relief made by Plaintiff in its sur-reply.

In the resistance to Sinoma’s motion to set aside entry of default, Plaintiff argued that the service on Sinoma was valid and the entry of default should not be set aside. Docket 16. However, in its sur-reply, Plaintiff has fundamentally changed its position by arguing that “even if service was arguably defective in some technical sense,” the Court should set aside the entry of default, but provide the alternative relief of allowing this action to proceed without subsequent service based on Sinoma’s actual notice of the lawsuit. Docket 19. Sinoma should be allowed to address this new argument as a matter of fairness, based on the same rationale and authorities that Plaintiff relied upon in its motion for leave to file sur-reply.

Accordingly, Sinoma respectfully requests the Court grant its motion for leave to file a sue-sur reply and accept the filing of its sur-sur reply attached hereto as Exhibit A. Sinoma will separately file the sur-sur reply within three days of an order of this Court granting its motion for leave or upon further instructions from the Court.

Counsel for the Plaintiff has been consulted, and he has indicated that he does not consent to this Motion.

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon the parties to this action by serving a copy upon each party listed below on March 20, 2017, by

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